

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kienke at el.
Title: RECLINER MECHANISM
Appl. No.: 10/549,554
Filing Date: 3/4/2004
Patent No: 7,527,336
Grant Date: 5/5/2009

REQUEST FOR RECONSIDERATION OF DISMISSAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for reconsideration of the dismissal dated December 15, 2009 (hereinafter "Dismissal"). A fee was submitted with the original request for reconsideration of Patent Term Adjustment (PTA) of March 26, 2009. If a request for reconsideration is not appropriate, then this present request is a petition under 37 CFR sections 1.181, 1.182, and 1.183.

In the Dismissal, the PTO refuses to follow a decision of the United States District Court for the District of Columbia with regard to Patent Term Adjustment (PTA).

Applicants note that the Federal Circuit has issued a decision in *Wyeth v. Kappos*, ***affirming*** the district court decision.

In *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010), the Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay and the B delay," and that "[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do not 'overlap' under section 154 (b)(2)" (emphasis added).

Accordingly, the PTO position set forth in the Dismissal is in violation of the law and our Request for Reconsideration of PTA dated March 26, 2009 should be immediately granted.

No additional fees are believed to be required. However, if any additional fees are required, the Commissioner is authorized to make appropriate charges to Deposit Account No. 19-0741 to provide exact payment.

Respectfully submitted,

Date February 15, 2010

By _____

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